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David Lee Duskocil

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EXAMINER

LUPINO, GINA M

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/817,368	Applicant(s) DOSKOCIL, DAVID LEE	
	Examiner Gina M. Lupino	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

I. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over SHIELS (U.S. Patent No. 4,673,328) in view of KOLLER (U.S. Patent No. 5,059,085) and HARRIS (U.S. Patent No. 5,288,197).

1.1. With respect to claim 9, SHIELS teaches a detachable level lifting trailer system with

1.1(a) a trailer, a cargo bed 16, and

1.1(b) a means for engaging the trailer and cargo bed 16, including

1.1(b)(i) a plurality of lifting rollers 18a -18d disposed to the trailer frame 10a-10c.

See column 3, lines 2-4.

1.1(b)(ii) a plurality of inclined channel tracks 12a - 12d disposed to the sides of the cargo bed 16,

1.1(b)(iii) a plurality of horizontal channel extensions having inclined channel tracks 12a - 12d, and

1.1(b)(iv) a means 32, 36 coupled to the trailer and cargo bed 16 for raising up the cargo bed 16 to a transporting position and lowering the cargo bed 16 to a ground position, where the inclined tracks and horizontal channel extensions 12a - 12d are sized to receive and guide the lifting rollers 18a - 18d. See Figures 1, 2 and column 3, lines 46-47.

1.1(c) However, SHIELS fails to teach side walls and hydraulic cylinders

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1.1(d) HARRIS teaches a hydraulic cylinder 52 to lift a trailer bed. Therefore, it would have been obvious to one of ordinary skill in the art to modify the lifting means in SHIELS with the hydraulic cylinders of HARRIS in order to raise and lower the trailer bed.

1.1(e) KOLLER teaches side walls 5. Therefore, It would have been obvious to one of ordinary skill in the art to modify the cargo bed of SHIELS with the side walls of KOLLER to stabilize and secure cargo during transport.

2. Claims 10, 11-13, 16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over SHIELS (U.S. Patent No. 4,673,328) in view of KOLLER (U.S. Patent No. 5,059,085).

2.1. With respect to claim 10, SHIELS teaches a detachable level lifting trailer system, as discussed above, with:

2.1(a) A trailer with a framed structure having

2.1(a)(i) an open end and an open space in the center. See Figure 1.

2.1(a)(ii) two parallel side frames 10a, 10c and a head structure 10b coupled to the parallel side frames 10a, 10c; and

2.1(a)(iii) a plurality of lifting rollers 18b, 18d disposed to the side frames 10a, 10c, and

2.1(b) A cargo bed 16 with two side members 10a, 10c having

2.1(b)(i) A plurality of inclined channel tracks 12a - 12d disposed to the side frame members 10a, 10c, and

2.1(b)(ii) A plurality of horizontal channel extensions each coupled to one of the inclined channel tracks 12a-12d. See Figure 1.

2.1(b)(iii) where each of the inclined channel tracks 12a-12d and side horizontal channel extensions 12a-12d are sized to receive one of the lifting rollers. See Figures 1, 2 and column 3, lines 46-47.

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2.2. With respect to claims 11-13, 16, SHIELS teaches a detachable level lifting trailer system, as discussed above, where

2.2(a) With respect to claim 11, the lifting rollers 18a - 18d are disposed on the inner side of the side frames 10a, 10c.

2.2(b) With respect to claim 12, a lifting roller 18a-18d disposed near the open end of the trailer is capable of being at a position higher than that disposed near to the head structure. See Figures 1 and 2.

2.2(c) With respect to claim 13, the trailer has a tongue structure 26 coupled to the head structure. See Figures 1-3 and column 4, line 24.

2.2(d) With respect to claim 16, the side frames 10a, 10c are structure beams. See Figures 1-3.

2.3. With respect to claim 18, SHIELS teaches a cargo bed assembly for use with a level lifting trailer system, with

2.3(a) A cargo bed 16, a cargo head end, a channel end opposite to the cargo head end, and a plurality of inclined channel tracks 12a-12d angled substantially at 45 degrees, where each of the inclined channel tracks 12a-12d

2.3(a)(i) are parallel to one another and disposed on the outer surface of the cargo bed 16 side,

2.3(a)(ii) couples to a horizontal channel extension disposed to the cargo bed side to receive a lifting roller 18a - 18d mounted on the trailer and guide the lifting roller 18a - 18d from the cargo head end of the cargo bed 16 and extending to the upper ends of the inclined channel tracks 12a-12d.

2.3(a)(iii) See Figures 1-3.

2.4. However, SHIELS fails to teach side walls.

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2.5. KOLLER teaches side walls 5. Therefore, it would have been obvious to one of ordinary skill in the art to modify the cargo bed of SHIELS with the side walls of KOLLER in order to stabilize and secure cargo during transport.

2.6. With respect to claim 19, SHIELS teaches a cargo bed assembly for use with a level lifting trailer system, with

2.6(a) A horizontal channel extension coupled to an inclined channel track 12a-12d near to the cargo head end that is capable of having a lower position than the horizontal channel extension 12a-12d coupled to an inclined channel track 12a-12d near to the channel end. See Figures 1, 2.

2.7. With respect to claim 20, SHIELS teaches a cargo bed assembly 16 for use with a level lifting trailer system, as discussed above, with horizontal channel extensions.

2.7(a) Although SHIELS fails to teach a horizontal channel extension that has a larger opening near to the end of the cargo head end than that near to the end of the channel end, it would have been obvious to one of ordinary skill in the art to modify the horizontal channel extensions of SHIELS with a larger opening near to the end of the cargo head end in order to facilitate engagement by the lifting rollers.

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over SHIELS (U.S. Patent No. 4,673,328) in view of KOLLER (U.S. Patent No. 5,059,085) and HARRIS (U.S. Patent No. 5,288,197).

3.1. With respect to claim 14, SHIELS teaches a detachable level lifting trailer system, as discussed above, with

3.1(a) A lifting means 32, 36 coupled to the tongue structure 26 of the trailer and a cargo bed 16 for raising up the cargo bed 16 to a transporting position.

3.1(b) However, SHIELS fails to teach side walls and a horizontal pull hydraulic cylinder.

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3.1(c) .KOLLER teaches side walls 5. Therefore, it would have been obvious to one of ordinary skill in the art to modify the cargo bed of SHIELS with the side walls of KOLLER in order to stabilize and secure cargo during transport.

3.1(d) Furthermore, HARRIS teaches a hydraulic cylinder 52 to lift a trailer bed. Therefore, it would have been obvious to one of ordinary skill in the art to modify lifting means in SHIELS, as modified by KOLLER, with the hydraulic cylinders of HARRIS in order to raise and lower the cargo bed to a transporting position.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over SHIELS (U.S. Patent No. 4,673,328) in view of KOLLER (U.S. Patent No. 5,059,085), HARRIS (U.S. Patent No. 5,288,197), and STANLEY (U.S. Patent No. 5,829,945)

4.1. With respect to claim 15, SHIELS teaches a detachable level lifting trailer system, as discussed above.

4.2. However, SHIELS fails to teach a plurality of spring loaded pin locks.

4.3. STANLEY teaches a roll-out tilt deck for a truck with a plurality of spring loaded pin locks 30 that are each able to extend into structural side members to retain a deck frame in a position. See Figures 1, 13, 15, 20 and column 2, lines 35-43. Therefore, it would have been obvious to one of ordinary skill in the art to modify the trailer and cargo bed in SHIELS with the spring loaded pin locks of STANLEY in order to retain the cargo bed in a transporting position without a continuous pulling force from a hydraulic cylinder.

5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over SHIELS (U.S. Patent No. 4,673,328) in view of KOLLER (U.S. Patent No. 5,059,085) and SOBINA U.S. Patent No. 5,630,693).

5.1. With respect to claim 17, SHIELS teaches a detachable level lifting trailer system, as discussed above.

5.1(a) However, SHIELS fails to teach a leaf spring suspended on a plurality of quarter axles with pneumatic tires.

5.1(b) SOBINA teaches a leaf spring 35, 40 suspended on a projection. See Figures 1, 7. Therefore, it would have been obvious to one of ordinary skill in the art to modify the detachable level lifting trailer system of SHIELS with the leaf springs of SOBINA in order to stabilize the trailer frame.

II. Response to Applicant's Arguments

Applicant's arguments entered October 6, 2006 have been fully considered.

1. Applicant's arguments with respect to the rejection of claims 9-20 under 35 U.S.C. 103(a) are not persuasive.

1.1. With respect to claim 9:

1.1(a) Applicant argues the cited references, taken alone, or in hypothetical combination, fail to teach or suggest features recited by claim 9. However, the Examiner disagrees with the Applicant.

1.1(a)(i) With respect to Applicant's argument that the apparatus taught in SHIELS is fundamentally different than the apparatus claimed in claim 9, SHIELS shows means for engaging the trailer and cargo bed 16, with lifting rollers 18a -18d disposed to the trailer frame 10a-10c. See Figure 1 and column 3, lines 2-4.

1.1(a)(ii) With respect to Applicant's argument that SHIELS does not mention any horizontal channel extension, Figure 1 of SHIELS shows horizontal channel extensions with inclined channel tracks 12a - 12d. See SHIELS, Figure 1.

1.1(b) Applicant also argues SHIELS is nonanalogous art. However, the Examiner disagrees with the Applicant.

1.1(b)(i) Specifically, Applicant argues the apparatus taught in SHIELS, KOLLER, and HARRIS are each "fundamentally different" from the apparatus claimed in claim 9. However, the Examiner disagrees with the Applicant.

1.1(b)(ii) A prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

1.1(b)(iii) Here, SHIELS is reasonably pertinent to the particular problem with which the applicant is concerned because SHIELS, KOLLER, HARRIS, as well as the claimed invention, all relate to a trailer bed adapted to facilitate loading and unloading of heavy cargo.

1.1(b)(iv) Therefore, the apparatus of SHIELS, KOLLER, HARRIS, are not fundamentally different from, or are not non-analogous to, the apparatus claimed in claim 9, and are validly relied upon as bases for rejection.

1.1(c) Furthermore, Applicant argues against the references individually. However, the Examiner disagrees with the Applicant. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. Here, although SHIELS fails to teach a trailer bed with side walls, KOLLER teaches a trailer bed with side walls. Therefore, It would have been obvious to one of ordinary skill in the art to modify the cargo bed of SHIELS with the side walls of KOLLER in order to stabilize and secure cargo during transport.

1.1(d) Finally, Applicant argues there is no motivation or suggestion to modify or combine the cited references to reach the present claim. However, the Examiner disagrees with the Applicant. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Here, it would have been obvious to one of ordinary skill in the art to modify SHIELS with, specifically, the hydraulic cylinders of HARRIS, in order to lift the trailer bed.

1.2. With respect to claims 10 and 18, Applicant argues they are patentable over the cited references because they contain the same limitations as those found in claim 9. However, the Examiner disagrees with the Applicant. While claims 10 and 18 contain the limitations found in claim 9, they are not patentable over the cited references for the same reasons as to why claim 9 is unpatentable, as discussed above. Thus, claims 10 and 19, as well as all claims depending from them, are unpatentable in light of the cited references.

III. Conclusion

1. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina M. Lupino whose telephone number is (571) 272-6557. The examiner can normally be reached on 8:30am - 5:00pm EST.
4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

6. GML



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